

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

JAMES-BRENT: ALVAREZ,

Case No. 6:19-cv-01071-AA

Plaintiff,

ORDER

vs.

LUKE SITTS, an individual; et al.,

Defendants.

AIKEN, District Judge:

Now before the Court are plaintiff James-Brent: Alvarez's Objection and Motion for Performance of Contract (doc. 58) and Affidavit (doc. 60). Plaintiff asserts that his Objection and Motion is not a motion or surreply, but an Objection and Notice pursuant to Federal Rule of Civil Procedure ("FRCP") 301 or Federal Rule of Evidence ("FRE") 301. There is no FRCP 301, and FRE 301 governs general presumptions in a civil case; it does not permit parties to file notices, objections, arguments, or evidence with the Court.

Plaintiff's Reply (doc. 62) asserts that he "is requesting the Court take Judicial Notice of the facts within the record[.]" Reply at 3. To the extent that plaintiff requests that the Court take judicial notice of the facts asserted in his affidavit, plaintiff's request is DENIED. Under FRE 201, the Court may "judicially notice a fact that is not subject to reasonable dispute" because it (1) "is generally known within the trial court's territorial jurisdiction" or (2) "can be accurately and readily determined from sources whose accuracy cannot be reasonably questioned." FRE 201(b). The facts asserted in plaintiff's affidavit do not fall within either category.

Accordingly, the Court will not consider plaintiff's Objection (doc. 58) or Affidavit (doc. 60) in ruling on defendants' Motion to Dismiss (doc. 41) or plaintiff's Motion for Leave to File Amended Complaint (doc. 45).

IT IS SO ORDERED.

Dated this 11th day of June 2020.

/s/Ann Aiken
Ann Aiken
United States District Judge